

## SUBCOMMITTEE NO. 4

## Agenda

Richard Polanco, Chair  
Dick Ackerman  
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Wednesday, April 24, 2002  
9:30 a.m.  
Room 3191

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## **5480      Commission on Correctional Peace Officers' Standards and Training**

The objective of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of California's state correctional peace officers through the development of sound selection practices and effective, competency-based training programs.

CPOST is composed of six commissioners serving four-year terms. Two commissioners are appointed by, and represent, the management of the Department of Corrections, and one commissioner is appointed by, and represents, the management of the Department of the Youth Authority. Three Commissioners are appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Since of July 1, 2000, the CPOST has been separate from the Youth and Adult Correctional Agency, functioning as an independent entity within this agency.

*Budget Request.* The budget proposes total expenditures of \$2.2 million from the General Fund and 20 positions to develop, approve, and monitor selection and training standards for California's correctional peace officers. This amount is a decrease of \$142,000, or 6 percent from current year expenditures.

No issues have been raised.

Does the Subcommittee wish to approve CCPOST as budgeted?

## 5240 DEPARTMENT OF CORRECTIONS

The Department of Corrections (CDC) is responsible for the control, care, and treatment of men and women who have been convicted of serious crimes and entrusted to the department's Institution and Community Correctional programs. In addition, the CDC maintains a Health Care Services Program to address inmate health care needs, and a civil narcotics treatment program for offenders with narcotic additions.

*Budget Overview.* The budget proposes \$4.8 billion for the CDC, which is a decrease of \$28.3 million, or 0.6 percent, below the estimated current year budget. As the table below shows, General Fund expenditures are proposed to decrease by \$2.1 million, or less than 0.1 percent from current year expenditures. The decrease is due primarily to cost factors related to the projected decrease in inmate and parole populations, the elimination of five expiring private Community Correctional Facility (CCF) contracts, and the cancellation of an additional 425 Community Correctional Reentry Center beds.

### CDC – Source of Funding

Fund	Expenditures (dollars in thousands)				Percent Change
	2000-01	2001-02	2002-03	Change	
General Fund	\$4,525,648	\$4,693,262	\$4,691,144	-\$2,118	0.0%
Federal Trust Fund	2,565	1,934	2,017	83	4.3%
Inmate Welfare Fund	45,157	45,994	45,825	-169	-0.4%
Special Deposit Fund	626	0	0	0	n/a
Reimbursements	91,239	89,658	63,601	-26,057	-29.1%
<b>Totals, Programs</b>	<b>\$4,665,235</b>	<b>\$4,830,848</b>	<b>\$4,802,587</b>	<b>-\$28,261</b>	<b>-0.6%</b>

*Authorized Positions.* Authorized positions for the department are proposed to decrease by 81, or less than 1 percent, from the current year numbers to 45,024. The primary reason for the decrease is due to declines in the estimated inmate and parole populations.

### CDC – Summary of Program Expenditures

Program	Expenditures (dollars in thousands)				Percent Change
	2000-01	2001-02	2002-03	Change	
Institution Program	\$3,451,211	\$3,627,679	\$3,600,388	-\$27,291	-0.8%
Health Care Services Program	675,597	734,718	735,225	507	0.1%
Community Correctional Program	535,548	463,025	464,975	1,950	0.4%
Administration	128,695	137,996	140,969	2,973	2.2%
Distributed Administration	-128,695	-137,996	-140,969	-2,973	2.2%
State Mandated Local Program	2,879	5,426	1,999	-3,427	-63.2%
<b>Total</b>	<b>\$4,665,235</b>	<b>\$4,830,848</b>	<b>\$4,802,587</b>	<b>-\$28,261</b>	<b>-0.6%</b>
<b>Total Authorized Positions</b>	<b>43,406</b>	<b>45,024</b>	<b>44,943</b>	<b>-81</b>	<b>-0.2%</b>

*Population Projections.* At the time of the budget's introduction in January, the department's total inmate population was projected to decrease from 156,409 on June 30, 2002, to 155,721 by June 30, 2003, a decrease of 688 inmates, or 0.4 percent. The spring 2002 projections estimate that the inmate population will decline from 157,881 on June 30, 2002 to 157,331 on June 30 2003, a decrease of 550 inmates, or 0.3 percent.

*Parole Population Projections.* At the time of the budget's introduction in January, the department's parole population was projected to decrease from 120,523 on June 30, 2002, to 116,811 by June 30, 2003, a decrease of 3,712 parolees, or 3.1 percent. The spring 2002 projections estimate that the parole population will decline from 119,636 on June 30, 2002 to 117,233 on June 30 2003, a decrease of 2,403 parolees, or 2 percent.

### ***Issues***

**1. Population Estimates.** In the current fiscal year, the inmate population has decreased more slowly than previously projected. The LAO notes that during the first half of the year, the inmate population was projected to decrease by 5,300 inmates from the prior year, but that it had only decreased by 4,300, approximately 1,000 inmates higher than estimated in the spring 2001 projections. As of March 31, the total inmate population was 157,035 – about 730 inmates above the fall projections. The population has reduced by about 3,500 inmates (or 2 percent) from than the population one year ago.

The CDC will issue updated population projections for spring 2002 that will form the basis for the department's May Revise proposal. Those population projections are consistent with the trend in the current fiscal year – a slight increase from previous estimates, and a continuing decline in actual population. The CDC and the BPT indicate that some portion of the increase from previous estimates is due to inmate processing delays in the reception centers related to Proposition 36, and internal paperwork processing delays.

The LAO withholds recommendation on CDC's caseload funding request pending the May Revision.

Does the Subcommittee wish to hold open CDC's caseload funding pending the May Revision?

**2. Current Year Deficiency.** The CDC has had General Fund deficiencies for several consecutive years, due largely to ongoing structural problems with the department's budget.

The CDC has a pending \$52.5 million deficiency for the prior year. The CDC has indicated that their most recent monthly budget projections estimate a shortfall of approximately \$277 million in the current year.

According to CDC, the budget deficits are the result of unfunded merit salary adjustments, court orders that drive program expansions, and high vacancy rates which drive up overtime costs.

At the Subcommittee hearing on April 8, the LAO recommended that the CDC report at budget hearings on its efforts to address its structural budget problems in the current year and the budget year.

What is CDC doing to reduce its deficiency?

**3. Delano II.** Chapter 54, Statutes of 1999 (AB 1535, Florez) provided authority for \$311.5 million in lease revenue bonds in order to construct a new 2,248 bed maximum security prison at Delano. Construction was scheduled for full completion in early 2004, with occupation of certain parts of the prison to begin in late 2003. Construction of the prison had been halted as a result of legal actions surrounding environmental impact reports. The CDC reports that the court has recently approved moving forward with the project.

The CDC reports that the project schedule has slipped about three months from the time of the January 10 budget proposal. The CDC indicates that previously bid contracts were placed on hold and will not need to be rebid.

The budget proposes \$957,000 from the General Fund for a total of 12.7 activation positions which are proposed to begin at various times in the budget year. Based on the new schedule for the project, the CDC estimates that approximately 4.2 additional positions and an additional \$488,000 would be needed to activate the institution in November 2003. The CDC indicates that a adjustment will occur at the May Revise.

What is the current schedule of the project?

**4. Community Correctional Facilities.** The CDC currently contracts with public and private entities for the operation of 16 Community Correctional Facilities (CCFs) throughout the state. Generally, the inmates sent to these minimum security facilities are deemed low risk by the CDC and are within a year of their release. The Governor's budget proposes to deactivate five private CCFs in the budget year and transfer approximately 1,435 inmates to other prison facilities for a net General Fund savings of \$5.1 million in 2002-03. The affected facilities are Mesa Verde in Bakersfield; McFarland CCF in Kern County, Leo Chesney Center in Live Oak,

Baker CCF in Baker, and Eagle Mountain in Riverside County. At the end of the fiscal year, the contracts for these facilities will expire.

Revised estimates, based on the CDC's overcrowding rate of \$14,797 per year would reduce the budgeted savings to \$2.8 million. Under the proposal, contracting costs would be reduced by \$24 million and an additional \$21.2 million and 239 positions would be allocated among CDC's institutions, based upon per capita allotments.

Given the deficiencies that CDC is running, the overcrowding rate may not be sufficient to cover the actual costs for housing additional inmates at CDC. In the current year, CDC estimates that its costs may exceed budget authority by as much as \$277 million. To the extent that the overcrowding rate understates the costs CDC faces, any potential savings may be significantly reduced. In addition, the increase of 239 positions may worsen the CDC's structural budget problems related to vacant positions and overtime.

Does the Subcommittee wish to deactivate five private CCFs?

**5. Closure of a Women's Facility.** CDC is experiencing a decline in its female inmate population. Between June 30, 1999 and June 30, 2001, the female population dropped by 771 inmates, or about 7 percent. Based on the spring 2002 projections, the female inmate population is expected to drop by another 1,091 inmates, or 10 percent, between June 30, 2001 and the end of the budget year.

According to data provided by the CDC, the Northern California Women's Facility (NCWF) is one of CDC's most expensive institutions to run. In 2001-02, the average cost per inmate at state institutions was \$27,796 in 2001-02, while the average cost for an inmate at NCWF was \$38,593. NCWF has a budget of \$19.9 million, but incurred a deficit of nearly 4 million, or 20 percent.

At the time of its *Analysis*, the CDC estimated potential savings of \$8.5 million in the budget year as a result of closure of NCWF. Due to the time lag in achieving savings the CDC now estimates savings of \$4.5 million in the budget year, and \$8.7 million ongoing. The LAO notes that there may be additional savings related to costs avoidance for overtime at nearby institutions that could also result from the closure of NCWF. The CDC estimates that the overtime cost avoidance may be over \$1 million.

Does the Subcommittee wish to close a women's facility?

**6. Medical Co-Payment.** In a Bureau of State Audits (BSA) report from January 2000, BSA estimated that CDC could save \$2.5 million by eliminating the \$5 co-payment that prisoners are now required to make for most prison health services. BSA found that the \$654,000 generated on average a year by prisoner co-payments was much less than expected and exceeded the administrative costs of the program. Co-payments are used to offset the costs for medical care.

The program was originally implemented in order to deter inmates from making unnecessary healthcare visits. When the program was initiated, CDC's General Fund allocation was reduced by \$1.7 million and replaced with an equal amount of reimbursement authority. No new positions were authorized for this workload. The CDC indicates that the co-payment forms are processed by existing staff and that the program has increased the data entry backlog for its accounting divisions. The CDC has indicated that it has experienced an approximate deficit of \$900,000 per year for this program.

The Department of Finance indicates that the elimination of the program would create a deficit in the healthcare budget for CDC unless the amount previously collected was backfilled with General Fund.

Does the Subcommittee wish to eliminate the medical co-payment program?

**7. Personnel Management Issues.** In January 2000, a BSA audit concluded that the CDC had failed to effectively manage sick leave usage and its holiday and leave programs, and as a result was incurring high overtime costs that are largely driven by the use of sick leave by custody staff. Additionally, the report highlighted that CDC had allowed excess vacation and annual leave accrue to a liability of \$79 million. At the time, BSA estimated that allowing these balances to accrue will cost an additional \$62 million in four years.

CDC indicates that it has taken a number of steps to improve personnel management practices, including developing better personnel management information systems, reviewing leave policies and practices, establishing Overtime Avoidance Pools, and taking progressively aggressive disciplinary actions against employees that abuse sick leave.

Last year, the Legislature approved \$36.5 million to realign the current budgeted relief pattern for existing posted positions to

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accurately cover vacation accrual and sick leave usage rates.

In order to determine the effectiveness of CDC's ability to reduce overtime and the significant liability of accumulated leave balances, the Legislature adopted supplemental report language directing CDC to report annually by January 10 on its effectiveness in reducing sick leave usage and in increasing the appropriate usage of budgeted vacation and other leave time, and to report on the net fiscal effect of these changes on the department's personnel expenditures.

In addition, the BSA released a second audit report in November 2001 regarding CDC's fiscal management which raised many of these same issues.

What is the status of the Personnel Management Report?

**8. Workers' Compensation Request.** The budget proposes an ongoing \$22.4 million to address the CDC's workers' compensation shortfall. Specifically, the budget proposes \$21.3 million for workers' compensation claims and \$1.1 million for increased service fees from the State Compensation Insurance Fund (SCIF).

The CDC attributes the increase to increases in salaries and the number of budgeted positions. The CDC notes that between 1997-98 and 1999-00, the total claims filed as a percentage of positions remained level at 31 percent. In addition, CDC notes that according to data from the SCIF, the costs of CDC's claims as a percentage of total payroll is lower for CDC (4.8%) than the CHP (7.8%), DMH (5.5%), and CYA (6.4%).

Expenditures for workers' compensation have nearly doubled from 67.6 million in 1995-96 to an estimated \$134.2 million in the current year.. The current base budget for workers compensation is \$91.1 million.

Last year the Legislature provided an additional \$21.8 million in one time funds for this purpose. In addition, the Legislature approved the creation of a Workers' Compensation Fraud Program, and adopted Supplemental Report Language directing CDC to report on workers' compensation expenditures and CDC's plan for reducing expenditures.

What is the status of the report on workers' compensation?



**9. Patton State Hospital DMH Population Increase.** The budget proposes \$427,000 from the General Fund and seven positions to establish additional security in the areas of medical guarding, perimeter security, patient visiting, and transportation for Patton State Hospital due to the scheduled increase of the CDC population at Patton. The request is for a two-year limited-term, pending completion of the Sexually Violent Facility at Coalinga.

The LAO raised issues concerning the need for this expansion given a slowdown in CDC's need for additional hospital beds. The CDC has indicated that it is reviewing this proposal as part of its analysis for the May Revision.

Does the Subcommittee wish to approve this request?

**10. Abolished Vacant Positions.** The budget proposes to reestablish 82 positions that were abolished pursuant to Government Code 12439. A total of 139 such positions were abolished. The funding for these positions has remained in the CDC's budget.

The CDC is seeking reestablishment of 34 positions related to safety and security and 48 positions related to court mandates and direct patient care. Under the proposal, CDC would retain the funding attached to 57 positions which would remain abolished.

Does the Subcommittee wish to reestablish these positions?

**11. IVP Position Activations.** The budget propose \$5.1 million associated with the costs for activation of 99 positions from Institution Vacancy Plans (IVPs). The previous bargaining contract allowed for up to 12.5 percent of posts to be held vacant and included in an institutions IVP. The savings from these vacancies helped the institution offset other personal services costs. The new bargaining contract calls for CDC to reach a statewide average of 5 percent for its IVPs. The CDC indicates that the agreement to bring these positions online results in an additional cost which cannot be redirected or absorbed given its current deficit.

Does the Subcommittee wish to approve this request?

**12. Compliance Audit Teams.** The Subcommittee chair has observed that there appears to be a "disconnect" between what is stated as policy at Headquarters, and the policy actually implemented at each facility, in many substantive areas. The most recent example of this is in implementing the proposed regulations related to visiting - many prisons began to enforce the proposed regulations even though they weren't yet finalized by HQ.

There has been discussion of establishing Compliance Audit Teams who would be charged with going to institutions regularly and randomly to ensure that HQ policies are being appropriately followed.

Have these Compliance Audit Teams been established?

**13. Fiscal Impact of the Recent MOU with Bargaining Unit 6.**

The CDC's recently MOU signed with Bargaining Unit 6 will be in effect until July, 2006. Preliminary estimates of the impact of that agreement on the department's budget appear significant.

What is the fiscal impact of the recent agreement?

**14. Personnel Disciplinary System.** The Inspector General's Office recently completed an audit of the Department's Personnel Disciplinary System. Among other things, the audit found that:

- The needless complexity of the employee disciplinary process causes delays that impair the ability of the CDC to take appropriate action against employees found to have engaged in misconduct.
- The CDC has no clear guidelines for defining the prescribed one-year period for investigating alleged misconduct and imposing disciplinary action against peace officers.
- Employee relations officers are not provided with adequate training, and lack the necessary experience to handle employee disciplinary actions.
- The CDC legal staff only gets involved after the cases go to the State Personnel Board

What is the CDC's response to the OIG's findings?

**15. Gang Management Policy.** The CDC has recently undertaken a review of its gang management policy, as it pertains to inmates who are given an indeterminate sentence to SHU, and to the way that inmates are segregated by race.

What is the status of this review?

**16. Elderly Inmates.** As part of its options for addressing the state's fiscal crisis, the LAO raised as a potential option the release to parole for certain non-serious, non-violent offenders age 60- and older.

What is the potential cost savings?

**17. Respiratory Protection Program.** The budget proposes \$620,000 for a respiratory protection program. The CDC indicates that this request would provide appropriate resources to allow it to address the medical evaluation portion of CAL/OSHA requirements.

Does the Subcommittee wish to approve this request?

## HEALTHCARE SERVICES

**18. Pharmacy Costs.** The CDC's medical expenditures have increased significantly in recent years. The budget proposes total expenditures of \$735.2 for the Health Care Services Division, which is an increase of \$169.3 million since the 1999-00 budget year. In a January 2000 report commissioned by the Legislature, the BSA found that the CDC does not fully or adequately use many standard managed care practices that could help hold down CDC's medical costs. In particular, BSA found that the CDC uses only limited methods to contain costs and ensure uniform care and that medical operating costs vary widely among the prisons providing medical care. The BSA also determined that rapidly growing CDC pharmacy costs could be reduced if the department employed more effective contracting methods.

Last year, the Legislature approved an augmentation of \$56.9 million for medical/psychiatric supplies. The base budget for medical/psychiatric supplies is \$68.1 million. The CDC had indicated that the costs for these supplies had increased from \$26.6 million to \$77.5 million in the previous 5 years. The CDC notes that the costs are increased primarily due to the increasing prevalence of seriously mentally ill inmates, and new expensive drug therapies for HIV.

The Legislature adopted budget bill language restricting the use of these additional funds until the CDC has developed a plan for implementation of the recommendations from a pharmacy services report for which the Legislature had appropriated \$400,000 in 2000-01.

What is the status of the pharmacy services report?

**19. BSA Audit on Medical Care/Pharmaceuticals.** The Bureau of State Audits issued a report in January 2002 regarding the containment of drug costs and management of medications for adult inmates. The BSA recommends that the Health Care Services Division of CDC:

- Update its formulary and monitor compliance so that it can identify prescribing practices that are not cost-effective.
- Ensure that prisons receive monthly contract compliance reports and use them to monitor noncontract purchases.
- Prepare an analysis to determine whether it has the appropriate division of responsibilities between its pharmacists and pharmacy technicians.
- Accelerate the acquisition and implementation of the Strategic Offender Management System (SOMS) and its health care management component.

What steps has the CDC taken to implement the recommendations from the BSA audit?

**20. Implementation of Plata.** CDC had entered into a settlement agreement with The Prison Law Office regarding the Plata v Davis class action lawsuit related to improvements to the delivery of medical services at CDC institutions. No funds have been requested in the budget year for implementation of the health care improvements from the Plata settlement agreement.

Last year, the Legislature approved \$15.9 million and 162 positions for Phase II implementation of improvements to the delivery of medical services at four institutions. This funding was intended to expand improvements to the chronic care and sick call programs intended to improve access to emergency, urgent, and routine medical care, similar to those implemented at institutions housing female inmates.

What is the status of the Administration's plan for implementing improvements to healthcare delivery?

**21. DMH Hospital Caseload.** In order to ensure CDC's compliance with a federal court order for the appropriate care of seriously mentally ill inmates, the CDC contracts with the Department of Mental Health (DMH) for intermediate care beds. The LAO recommends a reduction of \$7.1 million because CDC will use fewer beds than projected in state mental health hospitals operated by DMH. The LAO indicates that the budget for such beds is 255, but it projects CDC to use only 180 beds.

The CDC indicates that it has completed a bed needs survey which is being reviewed by the Coleman Special Master.

Does the Subcommittee wish to reduce the budget for DMH hospital caseload?

**22. Mandated Patient Information Management System.** Last year, the Legislature approved a Finance Letter for \$7.9 million to procure and implement a patient information management system at Pelican Bay State Prison in response to a federal court order.

The CDC is a defendant in class action litigation entitled *Madrid v Gomez*, which determined that there was inadequate delivery of health care services to patients at Pelican Bay State Prison (PBSP). In the court's order of January 24, 2001, the court states that the current system for scheduling and tracking patient appointments at PBSP is inadequate and ordered the replacement of the current system with a patient management system that provides for the management and control of patient appointments concerning essential elements related to the Remedial Plan.

The budget proposes to reappropriate \$7.2 million for this project. CDC indicates that the project is moving forward on schedule.  
Does the Subcommittee wish to approve this reappropriation?

## PAROLE SERVICES

**23. Accountability for Parole Agents – Role in ensuring successful reintegration.** Parole agent decisions drive a large part of the Department's budget. According to the CDC's latest numbers, 54% of all parolees are returned to prison for a parole violation (not a new crime). There are over 121,000 parolees in California. Thus, over 65,000 are returned to prison every year for a violation. The average cost to incarcerate an inmate is over \$27,000 per year. If 65,000 parolees are returned every year for an average of 4 months, it is costing over \$ 1/2 billion every year to house them.

What incentives does CDC have to encourage parole agents to keep parolees successfully engaged in the community instead of violating them?

Does the Subcommittee wish to cap the number of parolees that can be sent back to prison every year?

**24. Employment Training Programs.** The CDC has 3 employment training programs - EDD, JobsPlus, and Offender Employment Continuum (OEC). A recent Bureau of State Audits report found that a job placement through the OEC program cost \$1,439 vs. a placement through Jobs Plus, which cost \$615, including administrative costs. The report stated "the department could have saved over \$700,000 and provided jobs for over 500 more parolees by expanding [Jobs Plus] and eliminating [OEC]."

Why does the CDC keep a program that appears to not be cost-effective?

**25. Reimbursement Rate for CCRCs.** The CDC currently contracts for 1,100 Community Correctional Re-entry Center beds. Non-violent inmates are allowed to be placed in a CCRC if they are within 120 days of release. Inmates receive transitional, reintegration services while in a CCRC, such as job skills training, anger management, substance abuse treatment, life skills, and other services necessary to ensure a successful transition to parole. Current contracts provide for an average reimbursement rate of \$43.71 per day for these inmates. The actual cost to provide all the necessary services is closer to \$52 per day, depending on the geographic location. Last year, this subcommittee included budget bill language to increase the rate of reimbursement for 500 beds to \$56 per day. That language was taken out of the budget. No CCRC operator has ever had a cost of living adjustment.

Does the subcommittee wish to authorize an increase in the rate of reimbursement for CCRCs?

**26 Elimination of CCRCs.** In 1999, the Legislature authorized the CDC to contract for 500 additional CCRC beds. To date, those beds have not been activated. The proposed budget calls for eliminating the authority to contract for 425 of those beds.

Why haven't those beds been activated?

**27. Parolee PAC orientations.** The CDC requires parolees who parole to any of 10 participating parole districts to attend this program within a week of being paroled. The program brings together local law enforcement, parole agents, and community providers in one place, to provide information and services to parolees just released from prison.

How much would it cost to expand this program to every parole district and how much would it save the state in lesser parole revocation costs and parolee-at-large costs?

**28. Foreign-Born Parolees.** Over 5,000 parolees are undocumented residents that can be deported and transferred to the INS caseload. The annual cost to supervise a parolee is approximately \$2,600. If all the parolees were deported, the state would save \$14.1 million.

Should the committee take action to require CDC to pursue this option?

**29. More Community Based Placements for Non-Violent Offenders.** Currently, it costs approximately \$2,600 to supervise a parolee. Placement in a residential treatment facility costs \$6-8,000/year. The department estimates that if all non-violent inmates who have less than 12 months to serve on their sentence were placed in the community on a high-supervision parole caseload, there would be a cost savings of \$82 million in the budget year.

In light of the above discussion about the cost of the revolving door of parolees into the institutions, does the subcommittee want to recommend this option?

**30. Mandatory Pre-Release and/or Halfway House placement – successful reintegration.** Currently, only 5 percent of inmates participate in the Department's 3-week pre-release program. The pre-release program gives inmates some basic skills and resources to survive once released.

As previously discussed, CDC contracts for 1,100 re-entry facility beds. Every year, over 100,000 inmates are paroled. The vast majority of them have not received any type of pre-release or re-entry services prior to being released into the community. The recidivism rate is close to 70%. Research shows a correlation between inmates who go through a re-entry program that prepares them for successful reintegration into the community and a low recidivism rate.

Should the CDC require all inmates to go through a pre-release program that provides appropriate information about resources to assist in their reintegration to society? What would this cost?

Should all inmates be required to spend the last 6 months of their sentence in a secure, re-entry facility where they learn skills to keep them successfully in the community and less likely to return to prison? What would this cost?

## FINANCE LETTERS

**31. Move Grade B Condemned Inmates.** This Finance Letter requests an increase of \$185,000 from the General Fund to provide security upgrades and custody to move five Grade B condemned inmates from San Quentin to California State Prison-Sacramento pursuant to Chapter 934, Statutes of 2001 (AB 1460).

Does the Subcommittee wish to approve this Finance Letter?

**32. Telephone Maintenance and System Upgrades.** This Finance Letter requests an increase of \$1.7 million from the General Fund to upgrade telecommunications hardware and software in eight institutions. These eight institutions are currently using discontinued hardware and software that is set to be abandoned by the manufacturer. The CDC indicates that these institutions are currently using discontinued PBX systems and that in the event of failure, repair costs may be costly.

This proposal would allocate \$1.7 million in the budget year and \$1.7 million in 2003-04. The CDC would secure a loan estimated at \$3.2 million for project work to be completed in the budget year that would be repaid over two years.

The CDC identified another alternative to repay the loans over six years, with a budget year cost of \$674,000 and annual costs of \$620,000 for the following five years.

Does the Subcommittee wish to approve this Finance Letter?

**33. Distributed Data Processing System Hardware and Software.** This Finance Letter requests an increase of \$2.5 million for replacement and upgrade of the hardware and software that support the Distributed Data Processing System (DDPS). The DDPS system is comprised of Hewlett Packard minicomputers and is located in all institutions and HQ. The CDC indicates that the information systems dependent upon these database servers compromise the backbone of CDC's mission critical information technology. The manufacturer is discontinuing support of the software and hardware that run the system.

Does the Subcommittee wish to approve this Finance Letter?

**34. Interim Parolee Tracking System.** This Finance Letter requests \$972,000 from the General Fund for the replacement of hardware and software that support the applications of the interim Parolee Tracking System/Statewide Parolee Database. The CDC indicates that this upgrade is necessary because the manufacturer has discontinued the hardware and is no longer supporting most of the software that compromise the system.

The proposed solution would provide one-time funding for a centralized processor and database using a UNIX/ORACLE database, and on-going funding of \$1.1 million for Teale Data Center Support.

Does the Subcommittee wish to approve this Finance Letter?



**35. Standard Automated Preventive Maintenance System Upgrade.** This Finance Letter requests \$984,000 from the General Fund to provide a system upgrade for the Standard Automated Maintenance System. This system tracks all necessary facility and equipment maintenance. The CDC indicates that these upgrades are necessary because the current contract with the vendor has expires and the CDC must upgrade to a new version of the software.

Does the Subcommittee wish to approve this Finance Letter?

**36. Federal Victims of Crime Act Grant.** This Finance Letter requests \$114,000 in reimbursement authority to reflect an increase in the federal Victim of Crime Act Fund available from the OCJP. The funding is proposed for the Victim Services Communication Project.

Does the Subcommittee wish to approve this Finance Letter?

## 5440 Board of Prison Terms

The Community Release Board was established in 1977 and renamed the Board of Prison Terms (BPT) in 1980. The Board considers parole release and establishes the length and conditions of parole for all persons sentenced to prison under the Indeterminate Sentence Law, persons sentenced to prison for specified terms of less than life, and for persons serving a sentence for life with possibility of parole. The Board is also responsible for parole revocation hearings and for reviewing applications for clemency.

*Budget Overview.* The Governor's Budget proposes \$30.6 million from the General Fund for the Board of Prison Terms. The proposal represents a decrease of \$1.7 million, or 5.2 percent below current-year expenditures. Total authorized positions are proposed to be 249, which is a decrease of 16 positions from the current year.

Board of Prison Terms -- Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				<i>Percent Change</i>
	2000-01	2001-02	2002-03	Change	
Board of Prison Terms	\$25,802	\$32,389	\$30,617	-\$1,679	-5.2%
Total Authorized Positions	179	265	249	16	-6.0%

### Issues

**1. Proposition 36.** In November 2000, California voters approved Proposition 36, the "Substance Abuse and Crime Prevention Act of 2000." The measure changed state law so that certain first- and second-time adult offenders that use or possess illegal drugs receive treatment and intensive supervision in the community rather than being sent out to county jail or state prison. The measure also changed state law so that certain addicted parolees that use or possess illegal drugs receive drug treatment and more intensive parole supervision instead of being sent back to prison.

Last year, the Legislature approved 26 new positions to handle the additional Proposition 36 workload. The BPT indicates that 3 positions have been filled, in part, due to the hiring freeze, and that 4-5 positions have been redirected. The budget proposes to eliminate 8 of the proposed positions.

The CDC has indicated that there has been an increase in the inmate population in its reception centers in the current year. Part of this increase in reception center population is attributable to problems with the implementation of Proposition 36, and with paperwork delays and software problems with the revocation tracking system. To the extent that these delays result in additional population at the CDC, the delays could be costly. The BPT and the CDC indicate

that they are working to reduce the delays.

What is the BPT's plan for handling the Proposition 36 workload and what actions are being taken to ensure that the delays at the reception centers are addressed?

**2. Hearings for Life-Term Inmates.** Certain offenders in California prisons, particularly those punished for murder, are serving so-called indeterminate sentences in which the period of time to be served in prison before release to parole is not fixed in advance by the court. These indeterminately sentenced offenders are often called "lifers" even though most are eventually legally eligible for release. The BPT is the state agency primarily responsible under state law for deciding when those lifers who have served the minimum required prison time, and thus are now eligible for parole, will actually be released to the community.

The budget proposes a reduction of \$443,000 and 3.1 positions for hearing workload projections for life parole consideration hearings and parole revocation hearings based on the CDC fall population parole projections. This amount is likely to change due to updated population projections from the CDC at the time of the May Revise.

Last March, the OIG issued a report that made note of the growing backlog of life-term cases. At hearings last year, BPT reported that the backlog was approximately 2,000 cases. Because of the backlog, most of the hearings were delinquent by more than six months.

Last year, the Legislature approved SB 778 as a temporary measure to assist the BPT in reducing the growing backlog of cases. The legislation allows BPT to hold two-person panel hearings.

The OIG issued a recent follow-up report on its 2000 audit of BPT, indicating that except for the implementation of SB 778, BPT's efforts to improve efficiency and increase hearing capacity has been minimal. Due to the fact that the two-person boards are a temporary measure, the OIG report noted concerns that once they expire, the backlog may begin to grow again. The OIG notes that the board has not implemented measures from its own plan submitted in response to the OIG's first audit, including;

- Increasing the number of scheduled hearings per week from 22 to 26 (BPT has reduced scheduled hearings from 22 cases per week to 18 cases per week);
- Holding its monthly Board meeting on Monday rather than Tuesday to give commissioners an extra day to schedule hearings;

- Development of a supplemental hearing list.

The OIG also noted in this most recent report that the BPT's estimate for the elimination of the hearing backlog by May 2002 is unrealistic.

The BPT indicates that the current backlog is 739 cases and it will be reduced by the end of July.

What is BPT doing to reduce the backlog of cases and what measures has it taken to ensure that the backlog will not grow again?

**3. Backlog of Appeals from Inmates and Parolees.** In its follow-up audit on the BPT, the OIG reports that the BPT's processes are not adequate to handle appeals in a timely manner. As a result there is a backlog of over 2,200 appeals from inmates and parolees.

The BPT has no time limits to respond to appeals, although inmates and parolees must submit an appeal within 90 days of receiving written confirmation of a board decision. The BPT indicates that it has set an internal goal for a response to an appeal in 120 days. Subcommittee staff has no information as to how often the BPT meets its internal goals.

The OIG reports that the BPT's inability to process appeals in a timely manner has resulted in three court decisions mandating that the board meet fixed timelines for specific appeals. The BPT is required to meet 120 day timelines for appeals that originate from RJ Donovan Correctional Facility, and appeals filed by a specific inmate in San Quentin. Also, Armstrong v Davis requires the BPT to complete any appeal related to ADA issues within 30 days. The OIG notes that the BPT was recently fined by the courts for failing to meet the court established timeline for a case filed from Donovan.

In order to clear the excessive backlog of appeals, the OIG report recommends that BPT take the following actions:

- Consider transferring responsibility of its legal section from deputy commissioners to eliminate a duplication of efforts and a potential conflict.
- Develop an operations manual and written guidelines on processing appeals.
- Cross-train staff from other units on processing appeals as a backup in the event of staff absence or shortage.

What is BPT doing to reduce the backlog of appeals?

**4. Foreign Prisoner Transfer Program.** The United States has signed treaties with a number of foreign countries, allowing for the transfer of foreign born prisoners to their home countries. All of the treaties require the consent of the prisoner, the transferring country, and the receiving country. The CDC estimates that the number of foreign born inmates currently in CDC from countries with a treaty is 15,302. Of this amount, CDC indicates that 14,778 are from Mexico.

The Penal Code charges the BPT with administering the state's foreign prisoner transfer program. Section 2912 requires the BPT to actively encourage each eligible undocumented felon to apply for return to his or her county of origin, and requires quarterly reports to the Chair of the Joint Legislative Budget Committee.

The CDC indicates that it notifies inmates of their right to request transfer initially at the reception centers, and annually thereafter. The BPT has indicated that it has processed 344 applications from prisoners wishing to transfer since December 1995. There are 219 backlogged active cases that are currently being processed.

Last year, the Legislature approved Supplemental Report Language directing the BPT to report on the effectiveness of the Foreign Prisoner Transfer Program. The initial due date for the report was December 2002, however members of the Legislature requested that the BPT provide the information by January 2002. The BPT indicates that the report is undergoing final administrative review.

What is the status of the report?

**5. Finance Letter re: Armstrong Implementation.** The BPT has submitted a Finance Letter requesting \$57,000 to reprint 64 forms currently being used by the BPT. These funds are requested to meet the requirements of a court injunction related to the Armstrong v Davis lawsuit regarding the Americans with Disabilities Act.

Does the Subcommittee wish to take action on the Finance Letter?